

REMARKS/ARGUMENTS

Applicant has carefully reviewed the Office Action of March 19, 2007 along with the references referred to in the Office Action, namely, Cospen '014, Bozek '898, Bacon '259, Borden '034 and Brifcani '634, and has further reviewed the other references cited in the above application. Applicant also notes that the word "doesn't" in line 3 of page 2 of the Office Action should be "does" since applicant's Patent No. 6,516,968 does include FIGS. 7 & 8 of the present application and which supports the claims in the present application. Applicant is also replacing claims 32-39 with new claims 40-44 to set forth the structure of applicant's sheet metal can shell more clearly and to distinguish the claims more clearly over the cited references.

The one-piece sheet metal can shell set forth in new claim 40 has a radial cross-sectional configuration or radial profile which not only reduces the volume of sheet metal used to form the can shell by reducing the diameter of the blank and the thickness or gage of the sheet metal, but also passes the specific drop, roll out and buckling tests which a pressurized can is commonly subjected to after being filled with a liquid beverage and receiving a double-seamed can shell to form the can end. In addition, and also important, applicant's can shell minimizes the modification of existing double-seaming tooling in the field and which can be used with applicant's can shell. For example, applicant's can shell requires only a new double seaming chuck, such as the chuck 55 shown in FIG. 3.

For the Examiner's convenience, following is new claim 40 with reference numbers in parentheses for comparing the radial profile structure of claim 40 with applicant's can shell disclosed in connection with FIGS. 7 and 8. The left margin of the claim also includes a letter associated with each paragraph of the claim structure:

40. A one-piece sheet metal can shell having a vertical center axis (11) and a curled peripheral crown (42') adapted to be double-seamed to an end portion of a formed sheet metal can body (50'), said shell comprising

- A a circular center panel (12') connected by a panel wall (16') to an inner wall portion (17') of a countersink (18') having an outer wall portion (24') and a generally U-shaped cross-sectional configuration,
- B a chuckwall having a lower wall portion (34') connected to said outer wall portion (24') of said countersink and an upper wall portion (32') connected to an inner wall portion (38') of said crown,
- C said upper wall portion (32') of said chuckwall forming an angular break (35') with said lower wall portion (34') of said chuckwall,
- D said upper wall portion (32') of said chuckwall having opposite end points defining in axial cross-section with said center axis a first angle (A2) substantially greater than a second angle (A3) defined by opposite end points of said lower wall portion of said chuckwall in axial cross-section with said center axis, with said second angle being greater than ten degrees,
- E said inner wall portion (38') of said crown forming an angular junction (46') with said upper wall portion (32') of said chuckwall and extending from said junction at a third angle (A4) substantially less than said first angle (A2) in axial cross-section with said center axis,
- F said upper wall portion (32') of said chuckwall projecting substantially above said center panel (12') and having a horizontal radial width from said junction (46') to said break (35') greater than a horizontal radial width (W1) of said countersink adjacent the bottom of said countersink between said inner and outer wall portions of said countersink,
- G a radial width (W2) between said junction (46') and said outer wall portion (24') of said countersink adjacent the bottom of said countersink being greater than a radial width (W3) between said angular break (35') and said inner wall portion (17') of said countersink adjacent the bottom of said countersink, and

H a straight line distance (46' to 35') between said opposite end points of said upper wall portion (32') of said chuckwall also being greater than said horizontal radial width (W1) of said countersink adjacent the bottom of said countersink.

After reviewing all of the references, including the references referred to by the Examiner in the Office Action, applicant is unable to find any suggestion or teaching or motivation in the references of a can shell as set forth above in new claim 40 and which includes all of the specific structure of the can shell. On the other hand, MPEP §2143 states that "the prior art references when combined must teach or suggest all the claim limitations". More specifically, neither Cospen et al '014 nor Borden et al '034 suggests or teaches applicant's shell profile structure as set forth in above paragraphs F, G & H of new claim 40. Similarly, neither Bozek et al '898 nor Bacon '259 suggests or teaches the profile structure set forth in paragraphs C, D, E, F, G & H of new claim 40, and Brifcani et al '634 also fails to suggest or teach any of the profile structure recited in above paragraphs C-H of new claim 40.

As required by MPEP §2142, the Examiner must put aside knowledge of applicant's disclosure, refrain from using hindsight, and consider the subject matter claimed "as a whole", which includes all of the profile structure of paragraphs A-H of new claim 40. Moreover, even if all the profile structure of new claim 40 were disclosed in various references, by picking and choosing, the claimed shell invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill would have been prompted to combine selectively the teaching of the references to arrive at the specific whole shell structure set forth in new claim 40.

The above comments with respect to new claim 40 also apply to new claims 41-44 which depend from claim 40. In addition, claim 41 calls for a radial cross-sectional profile of the can shell which provides a clearance gap between the chuckwall of the shell and a corresponding chuckwall of a second shell supported thereabove by the crown of the shell, as applicant discloses in connection with FIG.

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10. New claim 42 sets forth that the horizontal radial width of the upper wall portion (32') of the chuckwall from the junction (46') to the break (35') is greater than a radial width (W3) between the break (35') and the inner wall portion (17') of the countersink adjacent the bottom of the countersink. New claim 43 recites that the upper wall portion (32') of the chuckwall is substantially straight in axial cross-section from the break (35') to the junction (46'), and the break (35') is located at substantially the same elevation above the bottom of the countersink as the center panel (12'). New claim 44 calls for the lower portion (34') of the chuckwall to be substantially straight in axial cross-section and extends at an angle (A3) of about 15° relative to the center axis. These claims 41 - 44 add additional profile structure to the radial profile structure of claim 40, and the further combination is also neither suggested nor taught by the references.

In view of the above, applicant respectfully submits that new claims 40-44 set forth a sheet metal can shell structure which is clearly distinguished from the references. Accordingly, applicant submits that these claims are in condition for allowance and respectfully request that this application be passed to issue.

Respectfully submitted,

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A handwritten signature in cursive script, reading "Alan Meckstroth".

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